

AGREEMENT FOR INTERACTIVE DRIVERS LICENSE RECORD PROCESSING

This agreement is made between _____, a person or entity with its address in _____ (“USER”), and Colorado Interactive (“CI”), LLC, portal manager of the state of Colorado’s electronic e-government portal pursuant to a long-term contract with the statutorily-established Colorado Statewide Internet Portal Authority (“SIPA”).

Recitals and Definitions

In order to improve legally permitted electronic access to Drivers License Records (“DLR”s hereinafter defined), other records, and electronic transactions, the Colorado Department of Revenue (“DOR”) has elected to participate in the state government-wide electronic portal initiative of SIPA.

USER desires to enter into an Agreement with CI for the purpose of receiving online access in real time (“live online access”), through CI, to certain records specified herein from the database maintained by, and under the custody and control of, the Colorado Department of Revenue, Division of Motor Vehicles (“DMV”).

USER desires the live online access in order to provide copies of such records to its customers who meet the legal criteria for release to them of DLRs (“Qualified Requestors”, as hereinafter defined), whether or not containing “Personal Information” as hereinafter defined.

“Agreement Effective Date” is the date when the last signature needed to make this Agreement effective is affixed thereto.

“Disclosure” means the sale, giving away without compensation, or other transfer or revelation of the information or data contained in a Motor Vehicle Record, whether a DLR or a TRL.

“Download Effective Date” is the date established by DMV and CI for the transfer of download responsibility from DMV to CI.

“Driver License Records” or “DLRs” are records containing information identified in 42-1-206(3.7)(a) CRS.

“Motor Vehicle Record” is any of that class of records compiled and maintained by the Colorado Department of Revenue, Division of Motor Vehicles pertaining to a motor vehicle title application under section 42-6-116, a motor vehicle registration application under 42-3-112, or other official record or document maintained by the department under section 42-2-121 pertaining to motor vehicles as defined in 42-1-102(58) CRS.

“Personal Information” is defined in the federal Driver Privacy Protection Act (“DPPA”) as adopted in Colorado statutes, 24-72-204, CRS, as amended from time to time. In the case of an information reseller who is the USER, the information reseller’s Requestor must be contractually bound to the information reseller to abide by the Colorado DPPA regarding the Requestor’s use of the DLR, and the disclosure or transfer to the Requestor of the DLR.

“Qualified Requestor” is, in the case of Records Containing Personal Information (RCPI), a User who has made an affirmative online indication of qualification pursuant to the Colorado DPPA to receive Personal Information and met any other conditions or qualifications imposed by DOR for access to such information; in the case of Records Without Personal Information (RWPI), a User. In the case of an information reseller that is a User, the person or entity who requests that the User furnish it with the record is the “Requestor” and in the case where Personal Information is requested, must be a Qualified Requestor.

“Records Containing Personal Information” or “RCPI” are those Motor Vehicle Records in which any data field of Personal Information has not been removed, thus revealing it to a Requestor upon Disclosure.

“Records Without Personal Information” or “RWPI” are those Motor Vehicle Records from which the Personal Information has been removed so that it is not accessible from such Record by the Requestor upon Disclosure.

“Single Use” describes a policy used by DMVs to assist in the effective administration of the DPPA, under which use of an RCPI is restricted to use, one time, for a legitimate purpose by a User, whether or not the User is a Qualified Requestor, and then the RCPI/RWPI is destroyed and, in the case of a RCPI, Personal Information is not retained except as integrated into the intended use indicated by the Affidavit of Intended Use. Under Single Use the User cannot give, sell, or loan an RCPI or RWPI that the User has obtained or, in the case of a RCPI, the Personal Information it contains, to any other person or entity for any purpose whatsoever; *provided however*, that in the case of an information reseller who is the User, the information reseller’s Requestor must be contractually bound to the information reseller to abide by the Single Use policy of DOR regarding the Requestor’s use of the DLR, and the disclosure or transfer of the DLR to the Requestor.

“Title, Registration, or Lien Records” or “TRLs” are Motor Vehicle Records that pertain to motor vehicles that are or were titled or registered in Colorado, or which have a lien placed upon them which is noted in Colorado.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, including the amounts hereinafter provided to be paid by USER to CI for such live online access, the parties hereto agree as follows:

1. The Recitals and Definitions are a part of this Agreement.

I. Transfer of DLRs from CI to USER.

2. CI shall furnish to USER a response interactively through a HTTP World Wide Web interface from DOR’s databases to an online request for a DLR for which the USER is qualified(“interactive service”), subject to any limitations on access to or use of the DLRs imposed by DMV, as soon as reasonably practical following the USER’s request.

3. USER shall pay to CI a Portal Fee (defined below) for the interactive service, in accordance with the following:

- a. \$2.00 per DLR (“Portal Fee”) for each DLR that is returned to USER whether or not such DLR contains or does not contain Personal Information.
- b. Null search results Disclosed do not generate a Portal Fee.
- c. “No change since last inquiry” results Disclosed generate a Portal Fee.
- d. Disclosure of any one or more elements of a DLR is considered Disclosure of a DLR and generates a Portal Fee.
- e. Payment of all Portal Fees for the previous month’s Disclosures shall be remitted to CI according to the terms of the monthly account user agreement with CI.
- f. An Account not paid when due may have its download access terminated without notice.

II. Treatment by USER of DLRs from which Personal Information has been permanently removed.

4. DLRs from which Personal Information has been permanently removed are not subject to regulation by the DPPA and thus are Public Records as that term is defined in Colorado law. As such, they may be disseminated to a Requestor by USER without compliance with the same rules as apply to DLRs containing Personal Information. However, the Portal Fee applies to disclosure or transmittal to USER of a DLR from which Personal Information has been permanently removed.

III. Treatment by USER of DLRs containing Personal Information.

5. USER agrees that DLRs containing Personal Information are subject to regulation regarding dissemination or disclosure to Qualified Requestors. USER agrees to require all its Requestors to acknowledge and agree to this as well.

6. DLRs provided by CI will only be used by USER, and USER agrees to require its Qualified Requestors to agree to take all reasonable steps to restrict their use to only that which is, in accordance with the restrictions imposed by DMV, if such DLRs contain Personal Information when the DLR is furnished to the Qualified Requestor.

7. A “Qualified Requestor” is one who has, as often as needed or requested by USER, but no less often than annually, completed and delivered to USER the following:

- a. A Requestor Release Form and Affidavit of Intended Use (Form A, attached). “Affidavit of Intended Use” has the meaning ascribed to it in 42-1-206, CRS, as amended from time to time.
- b. A Statement of Confidentiality for Motor Vehicles and/or Driving Record (Form B, attached).
- c. The name and address of the requestor, and
- d. A written agreement, signed in advance of any Disclosure, wherein the requestor agrees at a minimum to:

- (1) abide by the legal restrictions and conditions upon use and Disclosure of the Personal Information contained within a DLR,
- (2) keep sufficient books and records to evidence use in accord with the Intended Use, and
- (3) abide by such other provisions of this Agreement as are indicated to require Requestor agreement.

8. The DMV policy of “Single Use” applies to the DLRs containing Personal Information. For purposes of the Single Use policy, the single use is the use by each Qualified Requestor in accordance with the indicated Intended Use. USER agrees to destroy DLRs remaining in its possession when they are no longer needed for USER’s purposes under this Agreement. USER agrees to require a Qualified Requestor to agree to destroy the DLR (except insofar as the information is incorporated into the permitted use) after its use.

9. USER agrees, and if it is an information reseller, agrees to require its Qualified Requestors to agree, to abide by the policies of DMV and the laws of the United States of America and the State of Colorado regarding the Disclosure of DLRs issued to USER or to Qualified Requestor respectively.

10. USER agrees that neither it nor CI are representatives of DMV for purposes of DLR data interpretation and therefore are not authorized by DMV to interpret the content of DLRs.

11. USER agrees to implement reasonable system and data security procedures to protect DLRs from unauthorized Disclosure, and to require its Qualified Requestors to agree to do the same. Such reasonable procedures must include, but are not limited to, username and password access policies, firewalls, background investigations of employees or any other individuals authorized to access DLRs, and execution of confidentiality agreements by such employees or other individuals with authorized access.

12. USER agrees to keep and maintain, and to require its Qualified Requestors to agree to keep and maintain, in accordance with commercially reasonable data archive standards, for a period of time equal to five years after the last date that the USER has an Agreement with CI or DMV in force for Disclosure of DLRs (or, for a Requestor, five years after the last date the Requestor has an agreement with USER for Disclosure of DLRs), books and records, including financial accounts:

- a. documenting Disclosure of any DLRs in or under its or its Requestor’s respectively, possession or control,
- b. documenting its or its Requestor’s, respectively, systems and operation for handling of and safeguarding from unauthorized Disclosure of DLRs under this Agreement,
- c. documenting its or its Requestor’s, respectively, compliance with the other terms and conditions of this Agreement or the Requestor’s agreement with USER, respectively, and
- d. documenting each requestor’s qualification as a Qualified Requestor, if applicable.

- e. USER will make available, and agrees to require its Requestors to agree to make available, to CI, DMV, or the authorized representative of either of them, at any reasonable time, all such books and records including financial accounts, for auditing, compliance and monitoring purposes. Either CI or DMV shall have the right, but not the obligation, to conduct any inquiry or audit hereunder.
13. This agreement may be terminated:
- a. at any time upon sixty (60) days advance notice by an instrument in writing, signed by a duly authorized representative of the party wishing to terminate, and mailed to the other party.
 - b. immediately upon any material breach of any covenant herein at the option of the non-breaching party.
 - c. any notice of termination shall be deposited with the United States Postal Service, restricted delivery, return receipt requested, correctly addressed to the party to receive notice, and postage prepaid.
13. Upon sixty (60) days notice in the case of an information reseller who is the User, the information reseller's Requestor must be contractually bound to the information reseller to abide by the Single Use policy of DOR and the Colorado DPPA regarding the Requestor's use of the DLR, and the disclosure or transfer to the Requestor of the DLR by CI to the USER the DLRs provided to the USER shall be modified from a complete download of the DLRs provided by DMV to CI, to instead be only the specific DLRs that the USER is authorized to receive. The USER must, within a period of five (5) business days from the date of such notice, permanently delete any and all DLR's in its possession.

Each party's notice address and contact person listed below may be modified by such party by sending notice to the other party, in writing, of such change, at which time the new notice information shall be effective for the party giving notice. Any notice sent pursuant to this section shall be sent by restricted mail, return receipt requested, and postage prepaid.

- a. DMV's address for notice is:
Department of Revenue
Division of Motor Vehicles
Attention: Joan Vecchi
1881 Pierce Street, Room 100
Lakewood, CO, 80214

- b. USER's address for notice is:

c. CI's address for notice is:

Colorado Interactive, LLC
Attn: President (LEGAL NOTICE)
600 17th Street, Suite 2150 South
Denver, CO 80202

15. USER agrees to indemnify, hold harmless, and release CI and the State of Colorado and their respective parent corporations, subsidiaries, officers, agents, agencies, contractors, subcontractors and employees (collectively, the "Releasees") from and against any and all loss, damages of any kind, injury, liability, court awards, suits and proceedings, including costs, expenses and attorneys' fees, arising from the performance of this Agreement by the USER, its officers, agents, volunteers or employees, except insofar (with respect to indemnity, hold harmless and release of the State of Colorado) as they may result from the actions or inactions of the State of Colorado, its agencies, employees, contractors or subcontractors; and except insofar (with respect to indemnity, hold harmless and release of CI) as they may result from the actions or inactions of CI, its parent corporation, its subsidiaries, officers, agents, contractors, subcontractors, or employees. USER agrees to require the same indemnity, hold harmless and release provisions in favor of Releasees from each of its Requestors.

16. USER shall report to CI, and shall require that its Requestor report to USER who shall then report to CI, the following occurrences within twenty-four (24) hours of discovery:

- a. any breach of security or confidentiality involving a DLR furnished to USER or from USER to a Requestor;
- b. any litigation involving the content of a DLR furnished to USER or from USER to a Requestor;
- c. any breach of the USER's written agreement with the Requestor.

17. USER shall, and shall require its Requestors to, be capable of generating, within twenty four (24) hours of a request by CI or DMV, a history of its Disclosures over time of DLRs pertaining to any single individual.

18. USER shall not, and shall require its Requestors to not, use DLRs any Personal Information for direct mail or email solicitations, advertising, or surveys, nor shall it compile or publish, or permit others to compile or publish, including on the Internet, any portions of the Personal Information furnished to it in a DLR.

19. USER agrees, and shall require its Requestors to agree, that it (or a Requestor) is subject to remedial action by CI or DMV or both, in the event of violation of this Agreement. Such remedial action may range from suspension for a fixed period of time, of USER from live online access, or the requirement that USER suspend a Requestor from receiving Disclosure of DLRs, to termination of the privilege of receiving live online access, or in the case of a Requestor, from receiving Disclosure of DLRs, and may include liability of USER or Requestor for damages.

20. USER agrees, and shall require its Requestors to agree, that no third-party rights are created or acquired by reason of this Agreement.

21. USER agrees, and shall require its Requestors to agree, that no term or condition of any agreement with DMV or CI shall constitute a waiver, express or implied, of any provision of the Colorado Governmental Immunity Act (the "Immunity Act"), as amended from time to time, nor the risk management self insurance statutes (the "Risk Management Acts") as amended from time to time. Further, USER understands, acknowledges and agrees, and shall require its Requestors to understand, acknowledge and agree, that the liability of the State of Colorado for any claims or injuries arising out of any conduct of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of the Immunity Act and the Risk Management Acts.

22. The term of this Agreement shall be one (1) year from the date of signing, unless earlier terminated pursuant to the terms of this Agreement, and may be renewed for successive one (1) year terms.

23. USER acknowledges and agrees to require its Requestors to acknowledge, that the continuing ownership of the original record underlying each copy of a Motor Vehicle Record, including a DLR, remains with DMV.

24. This agreement constitutes the entire AGREEMENT of the parties and supersedes all other prior written or oral agreements between the parties with respect to the subject matter herein. This Agreement may be changed, modified, or amended at any time by CI or DMV, upon notice in writing to User, or by an instrument in writing, signed by duly authorized representatives of both parties hereto.

IN WITNESS to their agreement to all of the above and foregoing, the parties hereto have caused this instrument to be executed by their duly authorized representatives.

User is ___/is not___ an information reseller (to be completed by User).

USER

Colorado Interactive, LLC

Authorized Agent

Date

Richard C. Olsen
President

Date

(Typed Name)

(Typed Title)